REMARKS

Claims 1-30 remain pending in this application.

Claim 11 has been withdrawn pending allowance of a generic claim.

Claims 1, 20, 22, and 29 are in independent form.

Claims 1, 20-22, and 29 have been amended.

Support for the added "non-liquid" and "polymer"language can be found at page 8, line 22 to page 9, line 2, and page 10, lines 3-4, where the two materials are described as polymers which are non-liquid. Further, throughout the specification actions on the coating portions are described such as "cutting of apertures" (page 10, line 18), being "bonded together" (page 12, line 12), "microtexturing" (page 13, line 13) and which could not occur were either of these portions a liquid. Figs. 1 and 2 show the posterior portion having a complex structure which could not be attained by a liquid.

Further, at page 8 lines 9-13, the anterior portion is described as being "strong enough to hold a suture until degradation" implying that a binding zone of the orbit, such as an extraocular muscle, would be sutured and thereby anchored to the implant. The specification has been amended to make this clearer without introducing new matter.

The language of added Claim 30 is supported in the specification page 10, lines 9-13.

Rejection Under 35 U.S.C. 102

Claims 1, 20 and 22 have been amended to recite that the two materials having different bioabsorbabilities are non-liquid. In Perry (U.S. Patent No. 6,248,130) which is incorporated by reference in the present application, it is stated at column 9, lines 47-56 that the proposed therapeutic agents are typically in aqueous solutions and that those agents can be in the form of mixtures which

clearly indicate that they are liquid.

Claim 29 has been amended to require that the two materials having different bioabsorbabilities are polymers.

In view of which, the rejection for lack of novelty is no longer applicable.

Rejection Under 35 U.S.C. 103

Applicant restates his argument of the previous amendment and, in addition, respectfully objects to the combination of Perry and Ragheb et al. on the ground that these references are addressed to different and contrary purposes, and cannot provide a functional utility in the context of the invention.

Ragheb et al. discloses a structure capable of releasing drugs that *inhibit* coagulation and formation of clots as well as plaques, fibroblasts and fibrin (p.1, l.10-24). By contrast, Perry discloses a structure that *promotes* fibrovascular formation and vascularization (p.8, l.26-30). Moreover, Ragheb et al. is focused on delivering a drug to surrounding tissue. Perry is designed to promote ingrowth from surrounding tissue.

Accordingly, the references are exactly opposite in both purpose and function. There is no suggestion in either reference that Ragheb et al. could be used to modify Perry, and no inkling of success for such a combination. Applicant submits that the Examiner has not presented a convincing line of reasoning as to why the artisan with ordinary skill would have been motivated to combine the references.

On page 5 of the Office Action, the Examiner states that "... it would have been obvious ... to have combined the teaching of a prosthesis having two coatings external/exposed to the outer surface of the prosthesis, as taught by Ragheb et al., with the prosthesis of Perry, in order to deliver

two agents/drugs to the tissue to which the particular surface of the prosthesis is exposed." (Emphasis added.) However, Perry is not concerned with delivering an agent or drug to the surrounding tissue but to provide a mechanical structure that invites ingrowth from the surrounding tissue at two different rates. The inventions differ in the character of their functions - one primarily chemical, the other primarily mechanical - and in their respective purposes. There is nothing in Perry that would suggest the purpose of delivery of multiple drugs or any sort of external delivery to surrounding tissue. Ragheb et al. does not suggest favoring any kind of ingrowth, but instead, the exact opposite. The combination is incongruous and unsupported.

Furthermore, the combination of references is improper for the following reasons. In this case, the problem facing the inventor before the invention was made was how to achieve two contrary goals in a single implant - the first, by providing a smooth and slowly degrading external coating that would provide longer lasting smoothness, secure muscle attachment, encourage epithelial cell growth but which consequently discourages rapid fibrovascular ingrowth (p.4, l.1-4); and the second, by providing a rapid degradation of the coating in order to promote rapid fibrovascular ingrowth (p.4, l.12,13).

In examining this problem, the inventor would not be motivated to consider Ragheb et al. because it does not provide any insight on the subject. The Examiner made the mistake of focusing on the solution, i.e., the invention - the use of two coatings of different absorbabilities on separate sections of the implant. That kind of analysis is erroneous. In re Kahn 78 USPQ 2nd 1329 - note 22 at 1336 (Fed.Cir.2006).

The error led the Examiner to Ragheb et al. which discloses an implant with two types of coatings. The premise for the combination of references was faulty.

In view of the above, an early allowance of all the pending claims is earnestly solicited.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 23, 2007, by John D. Buchaca, Reg. No. 37,289.

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